

**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING**

May 27, 2004

Chairman Jim DiPardo called the meeting to order at 10:07 a.m. at the Missouri Department of Natural Resources, 1738 East Elm Street, Jefferson City, Missouri.

Commissioners Present: Jim DiPardo; Mimi Garstang; Jim Hull; and Dr. Gregory Haddock.

Staff Present: Larry Coen; Tom Cabanas; Richard Hall; Bill Zeaman; Richard O'Dell; and Shirley Grantham.

Others Present: Amy Randles, Attorney General's Office; James D. Rolls, Associated Electric Coop., Inc.; Mikel Carlson, Gredell Engineering; Rexroy Scott; F. A. DeCuyper; Ed and Stacey Counts; Steve Rudloff, Missouri Limestone Producers Association; and John Bryant, Norris Asphalt Paving Company.

1. MINUTES OF THE MARCH 25 AND APRIL 30, 2004, MEETINGS

Dr. Haddock made the motion to approve the Minutes as written. Mr. Hull seconded; motion carried unanimously.

2. ABANDONED MINE LAND ACTIVITIES

AML Status Report (Attachment 1). Mr. Cabanas presented this report to the Commission. He stated at the Perche Creek Project, the earthwork is almost completed. Seeding is about 50 percent complete. The remaining will be seeded this fall. Regarding the 32-acre Miller's Creek Project, near Millersburg, Missouri, a pre-bid conference was held on May 11, 2004. Bids are supposed to be in by today.

Mr. Cabanas stated that under the AML Emergency Reclamation Report, the only current project is the Mindenmines highwall. This project is almost completed. Regarding non-coal shaft closures, a bid was let out to close 12 new open shafts in the Joplin area. This contract was awarded to Terradyne LTD on March 22, 2004, and involves filling these shafts with polyurethane foam, a concrete cap, and fill material. An additional shaft has recently been located and may be added to the contract.

Mr. Cabanas stated regarding bond forfeiture reclamation projects, under the state reclamation projects, plans have been designed for areas at Pit 17 and Pit 15 at Missouri Mining in Putnam County. A pre-bid meeting is being held today regarding these two

areas. Mr. Cabanas stated bid openings are scheduled for June 17, and work at these two sites is to be completed by the fall of 2004. These two projects consist mainly of deep gully repair and pond renovation. It is planned to do a small project at Pit 12 at Missouri Mining for repair of a breached pond creating an off-site impact. The balance of the erosion repair will be conducted at a later date. There are two small projects at Pit 14 North and Pit 14 South which the program hopes to do, depending upon the staff's work load.

Mr. Cabanas stated regarding surety reclamation projects, the program recently negotiated a settlement with Lyndon Properties for the Tiger Mine at Midwest Coal, LLC. The contractor has been directed to do the public notice, and it is hoped that work will start in July. This site comprises 384 acres and involves disposal of coal wastes, highwall reduction, pond renovation, elimination of at least one off-site impact, topsoil replacement, and reseeded. Regarding the Riedel Energy project, which comprises over 900 acres, most of the reclamation already has been completed. Some work still remaining on this project involves land use issues, ponds, other engineering structures, gully repair, proper burial of coal wastes, and revegetation issues. Mr. Cabanas stated the North American Resources, Silver Creek and Foster Mines, and Universal Coal and Energy, Renick Mine, projects have been completed and are now being inspected for maintenance issues.

3. PERMITTING

Request for Hearing - Norris Asphalt Paving Company (Attachment 2). Mr. O'Dell stated the Program received a permit transfer application from Norris Asphalt in December 2003. The application proposes that the company will transfer an existing site currently permitted by Martin Marietta and continue to mine limestone on 530 acres of land located in Andrew County. The plan is that the site will be in operation until January 2025. The company published a public notice in a newspaper that has circulation in the area. The company also sent, by certified mail, a notice of intent to operate a surface mine to the appropriate county officials as well as adjacent landowners. During this public comment period, the Program received two letters concerning this permit transfer application. Concerns noted in the letters were property devaluation, blasting, and loss of scenic views. Norris Asphalt Paving Company has completed all the requirements to obtain a permit transfer under the Land Reclamation Act. Therefore, it is the Staff Director's recommendation to issue the permit transfer to Norris Asphalt Paving Company located in Andrew County. The recommendation for approving this application is based on the conclusion that the public's health, safety, or livelihood will not be unduly impaired by the issuance of this permit. The balancing test stated in the declaration policy of The Land Reclamation Act does not weigh against the surface mining of minerals in this instance; therefore, the recommendation is to approve this application.

Mrs. Stacey Counts, adjacent landowner, stated that following a meeting with Norris Asphalt, she does not feel the operator disputes any of her concerns. So it is very disturbing that her and her husband have been forced to hire an attorney and external administration to assist them in the resolution of this issue. She stated they have attempted to seek resolution with the company on their own. She stated they had a meeting with Mr. Bryant, a representative of the company, on April 17, 2004. There was candid discussion about their concerns, and she stated they felt that they were going to work out a resolution to their issues. Several resolution ideas from this meeting were that the company would remove the piles of dead trees which the company had placed south of their property. They viewed this site out of their living room window most of the winter and into the spring. The company has removed those trees and replaced them with a large dirt berm in an effort to sway the dust and the noise from the quarry and the view from their home of the gaping hole. Mrs. Counts stated she felt the berm has not been effective in controlling the dust. It continues to get worse as the company gets closer to their property. The most important point from the meeting was that the representatives of the company promised Mr. and Mrs. Counts at the April 17 meeting that they would hire a private firm to place a seismograph on their property to ease their concerns about the cracks in their foundation, walls, and ceilings. That has not happened at all. Shortly after the meeting, Mr. and Mrs. Counts came home to find Mr. Bryant's business card in their door with 10:30 a.m. written on the back of it. Mrs. Counts stated she called Mr. Bryant to find out what the problem was. Mr. Bryant advised her that someone had been at their property conducting a survey blast. She informed Mr. Bryant that they would want to be present anytime a blast was monitored so she could be sure that the extent of the monitored blast was the same as the blast that they have been experiencing. Not all of the blasts have been a concern, but some are. During that conversation, Mr. Bryant and Mrs. Counts agreed that another survey blast would be conducted the next day and that she should call him the next morning. This she did, and Mr. Bryant later called her at work around 8:20 a.m. advising her that the company would conduct a blast at 9:00 a.m. Mrs. Counts stated she expressed concern that she would not be able to make that time. Mr. Bryant indicated to her that the blast would not start without them and that he had the seismograph in his truck. She stated that she realized that they were not dealing with a private firm. Everyone met at 9:00 a.m. as indicated--Mr. Bryant, the company's production manager, and another man whose name was Steve whom she thought was supposed to be the seismologist. She asked for his card, and he indicated he did not have one with him. Mrs. Counts stated this made them nervous as to what was really going on. The seismograph was set up. The blast was conducted; however, the blast was much lower than the blasts of concern (about a 2 on a scale of 10). She stated that was the last time they have heard from the quarry regarding this issue. She stated the last issue from the April meeting was that the company representatives were to follow up with their superiors as they did not have the decision-making powers to be able to support Mr. and Mrs. Counts' resolution. The company was to provide them with feedback. This has

not happened. Mrs. Counts stated that upon receipt of the letter from the Program staff on a Friday, she phoned Mr. Bryant on Monday morning before contacting an attorney to try to get a clear intention from the company about what their plans are for them. Mr. Bryant informed her that he would come to their home anytime, day or night, in order to take pictures, etc. The fact remains that the seismograph needs to be in their yard at all hours of the day and night and that she needs to be able to monitor the blasts. That is the agreement that was made between Mr. and Mrs. Counts and the company. The quarry is 300 feet away from their property, possibly closer by now.

Mrs. Counts stated the issues of concern are the dust in their yard and the dust in their home, which has settled in their garden and rests on their furniture. She stated she does not simply dust, she has to scoop dirt first and then dust. The gas fumes from the quarry are very strong. If they leave their windows open during the day, when they come home from work, their home smells from fuel. She states she feels they have suffered a massive decrease in their property value. The company destroyed a tree line which completely separated them from the quarry. Having 530 available acres, she did not understand why the company would have to come that close to her home, especially after knowing all of their concerns. Those trees absorbed a lot of the noise and dust from the quarry. Mrs. Counts stated she feels the resale value of her home has also been jeopardized. She did not feel they could currently sell their home. The noise is very interfering. The hours of operation at the quarry have started as early as 7:00 a.m. and have gone as late as 7:30 p.m., Monday through Saturday. There is damage to their foundation, walls, and ceilings, but this issue has not been addressed by the company in any way. She stated she felt the company was in violation of Section 444.855(15)(A) and since the initial meeting with the quarry on April 17, that was the first time they were ever notified by the quarry prior to a blast. The company was 330 feet away from their property at the time of the April 17 meeting. She stated she has been at home on numerous occasions when blasting has occurred, but they were not notified. Another issue is the destruction and pollution of wildlife is huge. They haven't seen a deer in their yard for two years. The company promised to seed the dirt berm that it built, but that has not happened. Mrs. Counts stated they were not able to exercise their rights under Section 444.855(15)(E), as they were not made aware of when the company got to the half mile point from their property. The first she heard anything about any of this was the letter they received from the Program. That was the only way they were able to voice their concerns. They question the safety of their dogs. A neighbor's dog died, and it is believed that it died from being hit by a rock from the quarry. She also questions whether it is safe to eat the vegetables and fruits from their garden, as the dust settles there. Mrs. Counts stated she hears about toxic waste and that scares her. The garden is their hobby. She stated they would like to exercise their rights under Section 444.855(15)(B) and request that the Commission request this information be sent to Mr. and Mrs. Counts in a timely manner. She stated she was referring to the blast laws and asked for a response

from the Commission as to the accuracy and truthfulness of these laws. Mrs. Counts asked whether it is all monitored? She requested permission to submit additional information to the Commission regarding their issues with Norris Asphalt Paving Company. She stated she took some video taped footage yesterday of what they experience on a daily basis, but she was unable to get a second copy made of this tape. She would also like to present information regarding the damage to their home.

Mr. O'Dell noted that the statute Mrs. Counts was quoting (444.855) is the coal law and is not related to industrial minerals.

Mr. DiPardo asked how long Mr. and Mrs. Counts have lived at their current residence?

Mrs. Counts stated they have lived there almost four years. She stated there was nothing in the seller's disclosure about any previous structural issues to the home or that there was a quarry in the area. At that time, the quarry could not be seen from the highway. She stated they had no idea when they purchased the home that this could happen. They thought they had purchased country living.

Mr. DiPardo asked if Martin Marietta owned the property prior to that and was it being mined when Mr. and Mrs. Counts lived there then?

Mrs. Counts replied yes and that it was being mined. However, Martin Marietta was not as aggressive with their mining and their hours of operation did not interfere as much with their lives. They never would have come as close to their home as Norris Asphalt has.

Mr. DiPardo asked if Martin Marietta advised Mr. and Mrs. Counts when blasting was going on or was there structural damage to their home?

Mrs. Counts stated no. The house had no cracks in the walls when they purchased the house. It has only been recently because Norris Asphalt is so close to their home.

Mr. DiPardo asked if Mr. and Mrs. Counts had a decent relationship with Martin Marietta?

Mrs. Counts stated she did not have a decent relationship with Martin Marietta at all. She stated she did not have an issue with them. It has only been because of the aggressiveness of what has gone on recently and the lack of respect for their neighbors by Norris Asphalt. She stated they wanted to be decent about this and do not want to see their operations cease to exist. However, there are some real issues here that, without resolution, she did not see how both sides could continue.

Mr. Coen noted that the current permit is owned by Martin Marietta. Norris Asphalt wants to obtain the permit. So how it is that Norris Asphalt is working there now when it is Martin Marietta's permit?

Mr. O'Dell stated that Norris Asphalt did buy out Martin Marietta and is now the owner, and they are currently mining under Martin Marietta's permit. However, Martin Marietta is still liable for any actions that go on until the permit transfer goes through; but Norris Asphalt has taken over full control and can also be held liable. Mr. O'Dell stated this situation is a fairly common occurrence when there are transfers. One company buys out another company, and they continue to operate, a lot of times, the same people still operate the site, just different ownership. They just keep mining until the transfer is approved.

Mr. Bryant, Norris Asphalt Paving Company, stated in responding to Mrs. Counts' concerns and problems, the company constructed a berm and intend to seed it. However, this has not been done because the company wants to make sure they get it the right size. Since its initial construction, the company has actually made the berm a little higher and a little longer. The company is trying to work with Mr. and Mrs. Counts and they could call him at any time. He stated he does not work at the quarry site, but it is his understanding that the standing order is that they are to be contacted. However, he has called their home and was unable to leave a message on their answering machine as it indicated the memory was full.

Mr. Bryant stated that as far as the dust in the yard and the home, the company is moving some dirt close by. The company tries to keep it down by watering and is trying to follow all of the rules and regulations. Regarding gas fumes, that is an issue that he did not know anything about until the last conversation with Mrs. Counts. As far as the home's foundation, Mr. Bryant stated he has volunteered to come out and document these as well as possibly bringing in someone to do a pre-blast survey. He stated he has not heard definite on that. Mr. Bryant stated it was Steve Long with the seismograph and that he loaned it to Mr. Bryant and showed him how to operate it so it could be placed at the Counts' home to do some measurements. Mr. Long currently has that seismograph back in his possession and can bring it back at any time.

Mr. Bryant stated as far as mining, the company is following the mine plan of Martin Marietta. They were planning to go the same direction as Norris Asphalt is now.

Mr. DiPardo asked Mr. Bryant, according to the mine plan, whether the company was leaving a buffer or straight up to front yard?

Mr. Bryant stated the plan is to come up from the south to the side of the Counts' house. There is a buffer there and the intention is to swing away from their house. He stated

the company was at 650 feet from the Counts' home in April 2004. Mr. Bryant stated the company has progressed closer, but intend to follow the laws and keep the buffer in place and will be swinging around and heading away from their home.

Ms. Garstang asked how big is the buffer zone?

Mr. Bryant stated 50 feet is required and will be roughly 100 feet from the Counts' front yard to the edge of the highwall.

Mr. DiPardo asked how deep the company was going to mine?

Mr. Bryant stated he did not know.

Mr. DiPardo asked if Mr. Bryant had been to the Counts' home to see what they say is structural damage?

Mr. Bryant stated he has been to their home and they noted there was structural damage and that a skylight was leaking.

Mrs. Counts stated the ceiling of the skylight is giving from the walls, and there are cracks there. There are cracks running the entire length of their living room on both sides. She stated they offered to show Mr. Bryant the damage at the initial meeting, but he declined. The company indicated they would bring in a private firm or home inspector and didn't seem interested in viewing the damage.

Mrs. Counts stated she felt that at the initial meeting, they and the company felt the discussions were very civil and that there would be a resolution. However, since that time, things have gotten worse and worse.

Mr. Bryant stated the company is trying to address each individual problem as it comes along. He stated the company has built the berm. On one of Mr. Bryant's visits with the seismograph, he could still see past at the end. So he requested the company build the berm a little bigger and bring it down a little further. The company intends to seed the berm and put some trees on top which would help to alleviate the dust and fumes going onto the Counts' property. The company does intend to bring in a third party to survey the structural damage to the home. Mr. Bryant stated the company wants to work with Mr. and Mrs. Counts and to be good neighbors and apologized for not addressing their concerns as quickly as they would like the company to.

Mr. Coen stated a number of the issues discussed are not part of The Land Reclamation Act. It makes it difficult for the Commission to make a decision, but, as happened in the

past, Mr. Coen stated that when companies make commitments and don't follow through with them, they lose their credibility with their neighbors. It appears that is what is occurring here. It is not something that is part of an act, it has to do with honoring your word. There probably isn't a basis for denying a permit to someone who does not honor their word, but it certainly makes things difficult.

Mr. DiPardo stated that issues such as blasting, dust, and road noise are not issues that the Commission can act on. He stated he hoped the two parties could work to resolve their issues.

Mrs. Counts stated that they feel that their health, safety, and livelihood are affected by this operation. She can't take off work every time there is going to be a blast to put their dogs inside.

Ms. Randles stated when the Commission receives a request for a hearing, then it is up to them to decide when a person who requests a hearing states that his health, safety, or livelihood are being affected, whether, in fact, that is true. The Commission still has the discretion whether to grant a hearing or not.

Ms. Garstang noted this permit request is for a transfer of a permit.

Ms. Randles stated it is still an application for a permit by a new permittee. It is handled as a transfer because there is an operator on site already, but the new permittee basically wants to take it over on the same terms and conditions. That is why it is an application for a transfer instead of an application for a new permit. She stated the Commission's options today are that they can decide today whether or not to grant a hearing or delay its decision if it feels it needs more time for consideration.

Ms. Garstang noted a mining operation is already in place under an existing permit. The permit is being transferred from one company to another company. So, even if there is an issue with the transfer, doesn't the original company have the right to continue mining?

Ms. Randles stated once the transfer occurs, it is the new company that will have the right to mine under the new permit. In the case of a contract miner, that company would be under the permittee's control. So, the difference is that there will be a different operator who is the actual permittee. Norris Asphalt is a contract miner for Martin Marietta.

Mr. Carlson, consultant in this transfer process, stated that Martin Marietta has had this site under permit since 1985. Prior to Martin Marietta operating this site, it was operated by another company who transferred the permit to Martin Marietta. There has been a quarry on this site for quite some time. Based upon his review of aerial maps as well as

assessor's maps, Mr. Carlson stated the Counts' home is located on the southernmost of a tier of three houses known as the Hillcrest Heights Subdivision. Therefore, they are the closest and feeling the brunt of the current pit motion. The other persons who own the homes to the north of Mr. and Mrs. Counts may also soon be experiencing similar affects. He noted the approximate depth of the pit will be about 50 feet.

Mr. DiPardo asked whether transfers happen frequently?

Mr. O'Dell stated there are about 3-5 transfers that occur per year. Usually, a company sells a property first and then they still continue to mine on that property under the old permittee until the transfer is approved. Usually, there have been no hearing requests.

Mr. Coen noted that Mr. and Mrs. Counts did ask for the opportunity to provide some additional information.

Mr. Hull made the motion to table the decision regarding the hearing request on Norris Asphalt Paving Company until further information can be provided to the Commission by Mr. and Mrs. Counts prior to June 24, 2004, and encouraged the company to work with Mr. and Mrs. Counts. Dr. Haddock seconded; motion carried unanimously.

Mr. Coen noted that anyone who has not already requested to be heard prior to now, they cannot come in now and be heard.

4. ENFORCEMENT

J. M. Burger, Update and Request for Hearing on Formal Complaint 2688

(Attachment 3). Mr. Zieman stated the Commission signed a Notice of Formal Complaint in November 2003 which was issued for the company's failure to abate a Notice of Violation (replacement of bonding on the mine site) and for failure to pay an administrative penalty associated with the Notice of Violation. The company did request a hearing following its receipt of the Formal Complaint. At the March 2004 meeting, the Commission made the decision to table the request for hearing to allow the staff time to work with the company to resolve the violation. The staff has made several contacts with the company since the March meeting in an attempt to resolve the matter. As of this date, the company has failed to replace bonding on the mine site as required by the Notice of Violation. In a phone conversation with Mrs. Burger this morning, she indicated that she has attempted to get the original bond. However, the insurance company is not able to produce that original bond, for whatever the reason may be. It is hoped that this issue can still be resolved. However, as of now, there is no bond replacement for this company. Therefore, the staff recommends to the Commission that a hearing be scheduled and held in order to move forward with this issue and to review the Formal Complaint and that the matter of the hearing be referred to the Administrative Hearing Commission.

Mr. Hull made the motion that the Commission accept the staff's recommendation to schedule a hearing before the Administrative Hearing Commission in the matter of J. M. Burger. Ms. Garstang seconded; motion carried unanimously.

In the Matter of: Alternate Fuels, Inc., Show Cause Order No. 2500. Ms. Randles stated some follow-up work needs to be done on this issue, so no action is being requested of the Commission today and that a teleconference call might be held at the end of June.

Ms. Garstang made the motion that the Land Reclamation Commission meet in Closed Session at 9:00 a.m. on June 29, 2004, for the purpose of discussing personnel actions and legal actions, causes of actions, or litigation as provided for in Section 610.021, RSMo, and the Open Session to follow the Closed Session. Mr. Hull seconded; motion carried unanimously.

In Re: Alternate Fuels, Inc., Notices of Violation and Cessation Orders, Case No. 03-0007 DNR (Attachment 4). Ms. Randles stated this case involved an appeal of some Notices of Violation and Cessation Orders. The company has filed a dismissal of their appeal. The Final Order before the Commission dismisses the appeal and terminates this case.

Ms. Garstang made the motion the Commission dismiss the above appeal filed by Alternate Fuels, Case No. 03-0007 DNR. Dr. Haddock seconded; motion carried unanimously.

Mr. DeCuyper, a landowner at Alternate Fuels, stated this matter has been going on for so long. He stated he has checked around the country and that there are funds available to maintain the status of what has been done and to not let areas degrade like they have been. He stated that he wanted to make an official request to the Commission that he wanted to apply for funding consideration to stabilize and maintain the existing erosion problems that continue to get worse because of no maintenance or work that has been done in the last 3-5 years on the property at Alternate Fuels. There is erosion up to 3 feet deep, and all of the topsoil is being lost down the creek. Mr. DeCuyper stated he has been trying to cut the grass, cut the weeds, in order to salvage what has been done. There is a lot of area that has not been done correctly. There is no vegetation, there is land exposed, not topsoil, it is overburden. The sediment ponds and the pits are filling up with sediment from the overburden that is running off the bare ground. Mr. DeCuyper stated that, under the conditions as they currently exist, he would not buy off on the release. He stated he has spent his own money to maintain areas that are not his problem. The problem should have been handled during the reclamation. As this problem continues, the pits and the sediment ponds are filling up; and there won't be any place for this to be collected. It will go down the streams and the creeks in the area. The lack of

maintenance has been lacking from day one. Mr. DeCuyper stated maintenance has become worse, and he has done mowing, cut the weeds, to cut the grass so there is not all this dead grass on top that will kill any chance of anything growing through it. The weeds are terrible. If there are funds that are available that they could be sprayed, it would help tremendously. Also, the fields need lime and fertilizer. If these were applied, more of the grass could possibly be salvaged. Also, reseeding of the grass that is no longer there. The areas that do not have any topsoil on them are another issue. The topsoil is gone, and there is no topsoil available to place on there. Mr. DeCuyper stated he has tried to salvage as much of the grass as he can on his own. He stated he would like to solve this some way, and he did not feel it was his responsibility to have the burden of trying to make the ground where it could be used at some point in time. Another issue that should be considered is the devaluation of the property since it has been neglected as it has. Offers for purchase of the property have been about one-third of what it should be. Mr. DeCuyper stated he was not trying to sell the property at the present time, but he stated he can't continue to make or have all these expenses in trying to maintain it where it is a viable piece of property that can be utilized. Presently, there is very little that can have any benefit out of. Reclamation is the major issue. He has approximately 1,300 acres involved, so you can tell there is a considerable amount of money involved. He did not feel he as a landowner has been treated properly in the way this has been handled. He stated he hoped he can get some consideration. He did not say he minded doing it, he has been doing it and probably will continue to do it because he wants to salvage what is there. He did not know how long it would take to get the property back to where it can be put back into production, but he certainly did not feel that it has been handled per the DNR requirements and by the operator that was supposed to have been doing it. Mr. DeCuyper stated the money issue is not the major issue. The major issue is to get the area reclaimed and get it back. It has been how many years since the operator has stopped mining? The operator has not paid anything for the leases and the coal for a long time.

Ms. Garstang stated that, as a Commissioner, she could sympathize with Mr. DeCuyper's situation. She stated she was sorry it has taken so long, but that there are a lot of different factors that are being considered legally. The Commission wants to make sure it has considered everything and how they will affect each other.

Mr. DeCuyper stated he has never tried to stop the operator or DNR from doing what they wanted. He did this thinking they would do so per the requirements that were set up through DNR; however, this obviously has not been done.

Mr. DiPardo noted Mr. DeCuyper had spoken about some monies that are available, the program staff might want to be made aware of this.

Mr. DeCuyper stated he will try to pursue this further.

5. BOND RELEASES

Coal: (Attachment 5)

The Office of Surface Mining is currently processing these bond releases for the State of Missouri and doing the field inspections and making their recommendations to the Commission regarding the suitability of the Commission's actions on these requests.

Associated Electric Coop., Inc., PP-02-11, Prairie Hill Mine, Permit 1985-10. Mr. Hall stated this release request is for Phase I release on 46.7 acres (\$93,400.00) and a Complete (Undisturbed) release for 17.2 acres (\$43,000.00). This area is the haul road corridor leading from west to east into the west side of the Area 5 mining area, including the dragline dismantling site. Post-mining land uses for the Phase I release request include 0.6 acre of industrial, 8.7 acres of pasture, 9.0 acres of upland prime farmland, 13.1 acres of wildlife habitat, and 15.3 acres of non-prime cropland. Mr. Hall noted that Associated Electric is self-bonded. Therefore, requests from now on will be evaluated on an annual basis and then is simply a reduction of the amount of bond they have to be able to self-insure. These are not cash bonds or surety bonds at this point.

Associated Electric Coop., Inc., PP-02-12, Prairie Hill Mine, Permit 1990-02. Mr. Hall stated this release request is for Phase I release on 30.7 acres (\$61,400.00) and Complete (Undisturbed) release on 58.2 acres (\$145,500.00). The area requested for release covers the portion of Permit 1990-02 located immediately adjacent to the north side of the haul road corridor covered by Permit 1985-10 and a 10-acre triangular shaped area south of the east end of Permit 1985-10. Post-mining land uses for the Phase I release area include 5.3 acres of water, 6.8 acres of wildlife habitat, and 18.6 acres of non-prime farmland.

Mr. Hall stated that the Office of Surface Mining has verified that all Phase I requirements were met for grading, topsoil replacement, erosion control, draining control, proper seeding, and that the Undisturbed areas requested were unaffected by the mining operations.

Associated Electric Coop., Inc., PP-03-13, NEMO Mine, Permit 1983-07. Mr. Hall noted that Associated Electric never directly mined any of the NEMO Mine. They purchased it with the intent to do some mining, but basically bought the reclamation. He stated this release request is for Phase III release (final release) on 3 acres of reclaimed mined land with a post-mining land use of pasture for a release amount of \$1,500.00. Mr. Hall stated Phase I and II have previously been released on this area. All that remained was the proof of productivity on those 3 acres, and the Office of Surface Mining confirmed that the productivity standards for the area have been met and erosion

remained under control. Mr. Hall stated there were no known water quality problems associated with that particular area.

Mr. Hall stated the Office of Surface Mining therefore recommends that the Land Reclamation Commission approve the three applications for release for Associated Electric.

Ms. Garstang made the motion that the Commission approve the above three bond release requests as presented for Associated Electric Coop., Inc, at the Prairie Hill and NEMO Mines. Dr. Haddock seconded; motion carried unanimously.

Summary of Industrial Minerals Bonds Released by Staff Director (Attachment 6).

Mr. O'Dell presented this report to the Commission. He stated the Staff Director has reviewed, evaluated, and approved several Industrial Minerals bond release requests since the March 2004 Commission meeting which are as follows:

Missouri Rock, Inc., Courtney Quarry: 24 acres of pasture for a total release amount of \$12,000.00.

R-B Quarry, Site #1: 3 acres of water/industrial for a total release amount of \$0. The reason for the \$0 amount is that this company is at their minimum of 8 acres, and \$8,000.00 is the minimum amount of bonding. There were 5 acres remaining permitted at another site, which have subsequently been transferred to another company. Therefore, this company has no further acres permitted.

Robert Servaes Construction & Quarry, Site #1: 2 acres of industrial for a total release amount of \$8,000.00. The company is only doing a small amount of mining for personal use only, so no permit is needed and the entire site is released.

APAC-MO, Graham Quarry: 45 acres of undisturbed for a total release amount of \$22,500.00.

APAC-MO, Quarry #14: 2 acres of industrial for a total release amount of \$1,000.00.

6. OTHER BUSINESS

Update on Mining vs. Development and Sand and Gravel Legislation. Mr. Coen stated the Legislature ran out of time to take any action on the Mining vs. Development and the Sand and Gravel proposed legislation. He felt that these two pieces of legislation will again be introduced during the next legislative session. Mr. Coen noted that all of the Commission's comments were considered and written into the legislation.

Mr. Rudloff thanked the staff for their assistance in putting together the legislation and also felt that it would be proposed during the next legislative session.

Presentation of Resolution. A Resolution was presented to Rexroy Scott for his recent service and a job well done on behalf of the Land Reclamation Commission and the people of the State of Missouri.

Comments From the Public. Mr. Hull asked regarding the Norris Asphalt permit transfer, the agenda item refers to a transfer and expansion. He asked about the expansion? He noted the comments that were heard today only involved the site in Andrew County. However, it appears that the transfer request involves five sites?

Mr. O'Dell stated that the transfer package does involve five sites. Martin Marietta actually has 13 sites. Norris Asphalt is transferring 11 of the 13 as well as reopening an old one that they used to have. So it would be a total of 12 sites. The new reopened site was approved. The transfers came in three packets. One packet is still in the public notice process, the public notice period for one packet is over and there are some issues that need to be resolved, and the third packet, the one at issue today, is for several sites.

Mr. DiPardo asked whether the comment period would affect these other quarries as well?

Mr. O'Dell replied yes. The issue now is the hearing request on this permit application in this permit packet, so the other sites are held up with this as well because the company submitted it as one application.

Mr. DiPardo asked whether a hearing was provided for the persons at the other sites?

Mr. O'Dell stated that in this packet, only one site had a hearing request.

Mr. DiPardo asked whether the public notice went out to these other quarries or sites and the public has had a chance to comment on these?

Mr. O'Dell stated the site discussed today is the only site the program received comments on.

Ms. Garstang asked that when this issue is brought before the Commission again, that the information be provided on a map so that everything can be seen.

Closed Session. Mr. Hull made the motion that the Land Reclamation Commission meet in Closed Session at 8:30 a.m. on July 22, 2004, for the purpose of discussing personnel actions and legal actions, causes of actions, or litigation as provided for in Section 610.021, RSMo. Dr. Haddock seconded; motion carried unanimously.

Adjournment. The meeting was adjourned at 12:00 p.m.

Respectfully submitted,

Chairman